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 SHERYEL HEARNES,

Plaintiff,

v.

TOWNSHIP OF WOODBRIDGE;
 POLICE OFFICER MARCO BRUNO;
 JOHN DOE POLICE PERSONNEL 1 – 5;
 and JOHN DOE POLICE SUPERVISORS
 1 – 5,

Defendants.

SUPERIOR COURT OF NEW JERSEY
 MIDDLESEX COUNTY; LAW DIVISION

Civil Action

DOCKET No. MID-L-005129 - 17

AMENDED
PLAINTIFF'S COMPLAINT, JURY
DEMAND, TRIAL COUNSEL
DESIGNATION AND CERTIFICATION
PURSUANT TO RULE 4:5-1

COMPLAINT; JURY DEMAND, and DESIGNATION OF TRIAL COUNSEL

Plaintiff, SHERYEL HEARNES (hereafter "Plaintiff"), with a residence address of 50 Mravlag Manor, Elizabeth, New Jersey, 07202, by and through her undersigned counsel, complains of the Defendants and say that:

JURISDICTIONAL STATEMENT AND PARTIES

1. This is an action for monetary damages arising out of one or more violations of federal and state law, and is brought pursuant to 42 U.S.C. §§ 1983 and 1988, the Fourth and Fourteenth Amendments to the United States Constitution, Article I of the New Jersey State Constitution, and the New Jersey Civil Rights Act, N.J.S.A. §10:6-1 et seq.

2. This Court has jurisdiction over this action pursuant to the provisions of 28 U.S.C. § 1331 and § 1343 in that this is an action to redress violations of Plaintiff's state and federally protected Constitutional rights.

3. The Court has jurisdiction over the parties and the subject matter of this action.

4. Venue is proper in this Court based on the location where the subject incident occurred.

5. All claims for relief set forth in this Complaint arise from a common nucleus of operative facts.

6. This entire action constitutes a single case that should be heard in a single judicial proceeding.

7. At all times relevant herein, Plaintiff, SHERYEL HEARNS, was a legal citizen of the United States and a resident of Union County, New Jersey.

8. Defendant, TOWNSHIP OF WOODBRIDGE, was at all times relevant to this Complaint a municipal corporation incorporated under the laws of the State of New Jersey.

9. Defendant, TOWNSHIP OF WOODBRIDGE, was at all times relevant to this Complaint the employer of Defendant POLICE OFFICER MARCO BRUNO and other as-yet-unnamed officers (collectively "the Defendant Officers") involved in the wrongful arrest and malicious prosecution of the Plaintiff.

10. Defendant, POLICE OFFICER MARCO BRUNO, is and was at all times relevant to this Complaint a duly-sworn law enforcement officer employed by TOWNSHIP OF MAPLEWOOD, who was responsible for enforcing and upholding the laws of the State of New Jersey and the United States.

11. Defendants, JOHN DOE POLICE OFFICERS Nos. 1, 2, 3, 4, and 5 were at all times relevant to the Complaint employed by the TOWNSHIP OF WOODBRIDGE and were acting within the scope of their employment.

12. Defendants, JOHN DOE POLICE SUPERVISORS Nos. 1, 2, 3, 4, and 5 were at all times relevant to the Complaint employed by the TOWNSHIP OF WOODBRIDGE and were responsible for hiring, training, supervising, and disciplining subordinate employees.

13. Defendant Officers were at all times relevant herein assigned to investigate crimes alleged to have been committed within the boundaries of TOWNSHIP OF WOODBRIDGE.

14. Defendant Officers were at all times relevant acting under color of state law as active and duly-appointed Woodbridge Police Department officers, and in such capacity, as the agents, servants, and employees of the TOWNSHIP OF WOODBRIDGE.

15. Plaintiff has complied with all conditions precedent to the filing of this lawsuit pursuant to Title 59 of the New Jersey Statutes; all applicable notices have been provided to the Defendants.

16. Plaintiff has retained BMB LAW FIRM, P.C. to represent her interests in prosecuting this action, and said law firm is entitled to their reasonable attorneys' fees and costs incurred in connection therewith.

STATEMENT OF FACTS

17. At all times material hereto, the subject incident arises out of the wrongful arrest, incarceration and malicious prosecution of Plaintiff, without probable cause, resulting in personal injuries to said Plaintiff.

18. On or about October 31, 2015, Plaintiff, driven by her brother Rasheed Golden (hereinafter "Mr. Golden"), lawfully visited the Party City store at 455 Green Street in

Woodbridge, New Jersey to exchange a Halloween costume for her young son that was too small in size.

19. At approximately 10:30 a.m., another shopper in the Party City store, Maria Espinal ("Ms. Espinal"), went to the front of the store and placed a 9-1-1 phone call to police.

20. Ms. Espinal claimed that a "black female with pigtails" had pickpocketed her by removing \$220 in cash and a Capital One credit card from her purse.

21. Ms. Espinal claimed that she became aware of the alleged pickpocketing when her credit card was dropped to the floor.

22. Ms. Espinal claimed that she grabbed the money back from the female, who said to her "I'm sorry."

23. Ms. Espinal further claimed that the alleged pickpocket was accompanied by a second African-American female, who was shoplifting.

24. All of Ms. Espinal's allegations were completely unknown to the Plaintiff.

25. The Plaintiff was not accompanied by anyone else in the store.

26. Upon exiting the Party City store, the Plaintiff was converged upon by Woodbridge Police Officers led by Defendant Police Officer Marco Bruno.

27. Defendant Police Officers interrogated the Plaintiff and forced her into a patrol car, where she was subjected to the indignities of being arrested. Plaintiff was further humiliated when she was fingerprinted, processed as a common criminal, and placed in a holding cell at Woodbridge Police Headquarters. During her incarceration, the Plaintiff was not permitted to place a phone call or to use the bathroom.

28. Defendant Police Officers located the second woman accused of shoplifting by Ms. Espinal, but unlike the Plaintiff, they permitted the second woman to leave without incident.

29. Upon information and belief, Defendant Officer Marco Bruno either did not review security footage tapes from Party City's cameras, or reviewed them and found no evidence incriminating the Plaintiff.

30. Despite the store having multiple cameras covering every angle, Defendant Officer Marco Bruno reported no footage of the alleged pickpocketing in his police report.

31. Upon information and belief, Defendant Officer Marco Bruno interviewed no eyewitnesses at the crowded store except Ms. Espinal.

32. Upon information and belief, Officer Marco Bruno undertook no efforts to corroborate the malicious accusation of Ms. Espinal that the Plaintiff had pickpocketed her.

33. Furthermore, Ms. Espinal's accusation was memorialized in a statement which Officer Marco Bruno himself translated from Spanish to English.

34. Upon information and belief, Defendant Officer Marco Bruno found no stolen items on the Plaintiff's person.

35. Despite the overwhelming lack of evidence set forth in the preceding paragraphs, Defendant Officer Marco Bruno proceeded with his wrongful arrest and filing of false charges against the Plaintiff.

36. Upon information and belief, Plaintiff was arbitrarily, illegally, reprehensibly, with total malice aforethought, charged, under penalties of perjury, in an Indictable Complaint in the Superior Court of the State of New Jersey, Middlesex County, with, *inter alia*, Theft by Unlawful Taking or Disposition in violation of N.J.S.A. 2C:20-3.

37. As a result of her wrongful incarceration, Plaintiff was deprived of her basic liberties and freedoms as a United States citizen.

38. During the period of illegal and impermissible detention and incarceration, Plaintiff was wrongfully confined to a jail cell where Plaintiff suffered extreme physical and emotional distress.

39. The threat of being convicted of a criminal offense and facing incarceration for charges which were a figment of the malicious imagination of the Defendants, and each of them, caused Plaintiff to suffer emotional stress, anxiety, fear and psychological disturbance.

40. Plaintiff was humiliated and embarrassed by legal proceedings which stretched on for nearly two years, including her case being transferred from the Middlesex County Superior Court, to Woodbridge Municipal Court, and finally to Perth Amboy Municipal Court, which court proceedings were public, known to friends, family, acquaintances, business associates and neighbors.

41. Plaintiff incurred additional damages when she was denied potential promotion as in her job with Air Serv Corporation at Newark Liberty International Airport, due to a criminal charge for theft which remained pending against her for nearly two years.

42. The criminal charge was dismissed in favor of Plaintiff on August 9, 2017.

CAUSES OF ACTION

COUNT ONE

VIOLATION OF 42 U.S.C. § 1983

43. Plaintiff, SHERYEL HEARNS, re-alleges and re-avers each and every allegation set forth in Paragraphs 1 through 42 as if set forth fully herein, and further states as follows:

44. The Defendant Officers individually and as a group participated and conspired with one another, under color of state law, to deprive Plaintiff of her constitutional rights by, among other things:

- a. stopping and detaining Plaintiff without probable cause;

- b. falsely arresting Plaintiff;
- c. falsely imprisoning and/or detaining Plaintiff;
- d. improperly denying Plaintiff's right to privacy;
- e. denying Plaintiff her right to freedom of travel;
- f. depriving Plaintiff of her right to due process;
- g. depriving Plaintiff of her right to equal protection of the laws.

45. Defendant Officers subjected Plaintiff to further indignities by filing a false report, causing Plaintiff to be wrongfully confined in the Woodbridge Police Department jail, and instituting a malicious prosecution against her.

46. At the time of the complained of events, Plaintiff had the clearly established constitutional rights to be free from malicious prosecution without probable cause under the Fourth Amendment and to be free of violations of due process under the Fourteenth Amendment.

47. Any reasonable police officer should have known of these rights at the time of the complained of conduct as they were clearly established at that time.

48. The Defendants violated Plaintiff's Fourth and Fourteenth Amendment rights to be free from malicious prosecution without probable cause and without due process in furthering criminal charges against the Plaintiff despite the overwhelming exculpatory evidence available in her favor.

49. The exculpatory evidence includes, but is not limited to, the absence of the Plaintiff on any video footage, the lack of corroborating witnesses against her in a crowded store on Halloween, and her own explanation to police at the time of her arrest that she had never seen the alleged shoplifter or the woman who accused her of pickpocketing before in her life.

50. The Defendants engaged in the conduct described by this Complaint willfully, maliciously, in bad faith, and in reckless disregard of Plaintiff's protected constitutional rights.

51. The procurement of prosecution against the Plaintiff under a known false allegation was malicious, shocking, and objectively unreasonable in light of the circumstances.

52. Those criminal proceedings terminated in Plaintiff's favor as the indictment was dismissed by the State.

53. The above acts constitute a violation of the Civil Rights Act, 42 U.S.C. § 1983 for violation of one's civil and constitutional rights under color of state law.

54. As a proximate result of the aforesaid acts by Defendants, Plaintiff has been damaged and has suffered severe physical and emotional injuries, mental distress and anguish.

COUNT TWO
VIOLATION OF 42 U.S.C. § 1981

55. Plaintiff, SHERYEL HEARNS, re-alleges and re-avers each and every allegation set forth in Paragraphs 1 through 54 as if set forth fully herein, and further states as follows:

56. The acts of the Defendant Officers constituted a violation of the Civil Rights Act, 42 U.S.C. § 1981.

57. The acts of the Defendants were motivated by racial animosity and by desire to injure, oppress and intimidate the Plaintiff because of her race.

58. As a proximate result of the above-mentioned acts, Plaintiff has suffered damages including severe emotional distress and mental anguish as well as a deprivation of her rights under § 1981 and the Equal Protection Clause of the United States Constitution.

COUNT THREE
VIOLATION OF 42 U.S.C. § 1985 (CONSPIRACY TO VIOLATE CIVIL RIGHTS)

59. Plaintiff, SHERYEL HEARNS, re-alleges and re-avers each and every allegation set forth in Paragraphs 1 through 58 as if set forth fully herein, and further states as follows:

60. The acts of Defendant Officers constitute a violation of the Civil Rights Act, 42 U.S.C. § 1985, namely a conspiracy to violate the civil rights of Plaintiff based on her race.

61. As a proximate result of the above-mentioned acts, Plaintiff has been damaged and has suffered severe physical and emotional distress and mental anguish as well as deprivation of rights under the Civil Rights laws.

COUNT FOUR
VIOLATION OF 42 U.S.C. § 1986

62. Plaintiff, SHERYEL HEARNS, re-alleges and re-avers each and every allegation set forth in Paragraphs 1 through 61 as if set forth fully herein, and further states as follows:

63. The Township of Woodbridge had knowledge of the discrimination/violation of constitutional rights perpetrated on Plaintiff and/or other minorities, including Plaintiff, but neglected and failed to prevent said wrongful and illegal acts when they had power to do so.

64. This neglect, aid and refusal to prevent or rectify is a violation of the Civil Rights Act, 42 U.S.C. § 1986.

65. As a proximate result of the above-mentioned acts, Plaintiff has been damaged and has suffered severe emotional pain, suffering, anguish and distress and a deprivation of rights under the Civil Rights laws.

COUNT FIVE
VIOLATION OF 42 U.S.C. § 1983 (NEGLIGENT SCREENING, HIRING, TRAINING,
SUPERVISING – DISCIPLINARY RETENTION OF DANGEROUS
DISCRIMINATORY POLICE OFFICERS)

66. Plaintiff, SHERYEL HEARNS, re-alleges and re-avers each and every allegation set forth in Paragraphs 1 through 65 as if set forth fully herein, and further states as follows:

67. Defendant Township of Woodbridge was negligent in screening, hiring, training, supervising, disciplining and/or retaining the Defendant Police Officers in this matter, who they knew or should have known were dangerous and/or acted in a racially discriminatory manner.

68. Defendant Township of Woodbridge is liable for the aforesaid acts both under the doctrine of *respondent superior* and because it permitted conditions to exist which facilitated and/or permitted such conduct to occur.

COUNT SIX
NEW JERSEY STATE CIVIL RIGHTS ACTION/STATE CONSTITUTIONAL CLAIM

69. Plaintiff, SHERYEL HEARNES, re-alleges and re-avers each and every allegation set forth in Paragraphs 1 through 68 as if set forth fully herein, and further states as follows:

70. The illegal, unconstitutional and discriminatory acts of the Defendants constituted acts of a *de facto* policy to discriminate, falsely arrest and detain Plaintiff. The actions of the Defendants aforesaid also represent a *de facto* policy to deny Plaintiff her right to travel, equal protection and privacy. All of these violations contravene Plaintiff's constitutional rights under the New Jersey State Constitution including, but not limited to, Article I, Section 1; Article I, Section 5 – denial of rights; and Article I, Section 7 and the New Jersey Civil Rights Act (N.J.S.A. 10:6-2).

71. The criminal proceeding complained of herein filed against Plaintiff was instituted with actual malice, knowing that there was no probable cause, or any cause, to file such charges against Plaintiff.

72. The criminal proceeding complained of herein was pursued with malice, as Defendant Police Officer Marco Bruno persisted in bringing complaining witness Ms. Espinal to court appearances for nearly two years and pressured her to repeat her false allegations under oath in order to justify his false arrest.

73. Each individual Defendant was acting at all times in furtherance of his employer, Defendant Township of Woodbridge.

74. As a result of the aforesaid conduct, Plaintiff has been damaged, including violation of her civil rights and has suffered severe physical and emotional pain and suffering.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment against the Defendants, including but not limited to:

An award of compensatory damages and punitive damages against Defendants; for her personal injuries; pain and suffering; past, present and future medical and psychological care expenses; mental anguish; loss of earning capacity; and loss of capacity to enjoy life; as well as her costs; back pay and benefits for her forfeited promotion, front pay and benefits for same; prejudgment interest; attorneys' fees and costs; and all other relief the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues so triable under the law.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Brooke M. Barnett, Esq. is hereby designated as trial counsel in this matter.

THE BMB LAW FIRM, P.C.

Jeffrey V. Fucci, Esq.
Attorneys for Plaintiff, Sheryel Hearn

Dated: 08/29/2017

CERTIFICATION OF NO PERSONAL IDENTIFIERS

Pursuant to R. 1:38-7, the undersigned hereby certified that all confidential personal identifiers have been either redacted or excluded from this pleading, and will so be from all subsequent pleadings related to this action.

THE BMB LAW FIRM, P.C.

Jeffrey V. Fucci, Esq.
Attorneys for Plaintiff, Sheryel Hearn

Dated: 08/29/2017

CERTIFICATION PURSUANT TO R. 4:5-1

In accordance with R. 4:5-1, I hereby certify that the within action is not subject of any other related pending court or arbitration proceeding and that there are no other actions or arbitration proceedings presently contemplated in this matter. I further certify that, to the best of my knowledge, there are no other parties that should be joined in this action.

THE BMB LAW FIRM, P.C.

Jeffrey V. Fucci, Esq.
Attorneys for Plaintiff, Sheryel Hearn

Dated: 08/29/2017